

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Telephone Number Portability

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) CC Docket No. 95-116
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COMMENTS OF THE
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association ("USTA") hereby submits these comments in the above-captioned proceeding in response to the recommendations of the North American Numbering Council.¹ As the principal trade association of the local exchange carrier (LEC) industry, USTA comprises approximately 1,200 in carriers that are directly affected by the Commission's actions in this docket. USTA has been an active participant in all phases of implementing telephone number portability.

¹ See *North American Numbering Council, Local Number Portability Administration Selection Working Group ("Recommendations")* (rel. Apr. 25, 1997); FCC Public Notice, *North American Numbering Council Issues Recommendations Regarding the Implementation of Telephone Number Portability ... Common Carrier Bureau Seeks Comments on the NANC's Recommendations*, DA 97-916 (Com. Car. Bur. rel. May 2, 1997).

INTRODUCTION

On May 1, 1997, the North American Numbering Council forwarded its recommendations to the Commission in the form of a report from its Local Number Portability Administration Selection Working Group (“Working Group”) concerning LNPA selection. The recommendations, *inter alia*, include a discussion of the formation of limited liability companies (LLCs). An LLC has been established in each of the seven LNPA regions for the purpose of maintaining competitive neutrality. The LLCs have individually established their own rules for ensuring that affiliated members are collectively entitled to a single vote,² requiring that some decisions must be made unanimously or by a super-majority,³ and establishing a dispute resolution process.⁴ However, “most decisions are made by a simple majority vote.”⁵ According to the Working Group, “The combination of open membership and a one-vote-per-member policy facilitates full and vigorous neutrality in the actions of LLCs.”⁶ USTA disagrees with this conclusion.

² *Id.*, at para. 4.4.2.

³ *Id.*

⁴ *Id.*, at para. 4.4.6. *See also* para. 7.1.1.F (Working Group recommends that a common dispute resolution process be developed within NANC and agrees to recommend modifications to each LLC’s dispute resolution process so that LLC and LNP disputes could be submitted through dispute resolution to NANC).

⁵ *Id.*, at para. 4.4.2.

⁶ *Id.*, at para. 4.4.3.

DISCUSSION

While USTA supports the Working Group's recommendations generally, the association is not confident that the recommendations contain adequate safeguards to ensure competitive neutrality. In particular, it is doubtful that the one-vote-per-member procedure will consistently guarantee equitable outcomes. Disputes are bound to arise out of competitive tensions between incumbent- versus competitive-LECs, large- versus small-LECs and LLC members versus nonmembers. There is simply no assurance that all of these disputes will be resolved efficiently and evenhandedly. In recognition of the inherent competitive tensions and the pitfalls associated with a one-vote-per-member procedure, LLCs have developed dispute resolution processes and have required that some decisions be made unanimously or by a super majority. However, given the fact that the LLCs enjoy virtually unlimited discretion to establish and enforce their own rules and most questions will be decided by a bare majority, these protections may or may not suffice.

Should the Commission choose to rely on the LLCs as the primary vehicle to ensure competitive neutrality, or a common NANC-sponsored dispute resolution process or even some other approach, USTA urges the Commission to take further steps to guarantee that all carriers are in fact treated in a competitively neutral manner. In USTA's view, the administration of telephone number portability should be subject to guidelines designed to ensure procedural and substantive fairness. At a minimum, such rules should provide an opportunity for direct appeal to the Commission by any carrier alleging that an action

undertaken by an LNPA vendor or an LLC, as the case may be, is not competitively neutral.

CONCLUSION

As soon as the Commission acts on the recommendations of the North American Numbering Council, USTA respectfully requests that the Commission adopt minimum safeguards to ensure that the administration of telephone number portability is competitively neutral.

Respectfully submitted,

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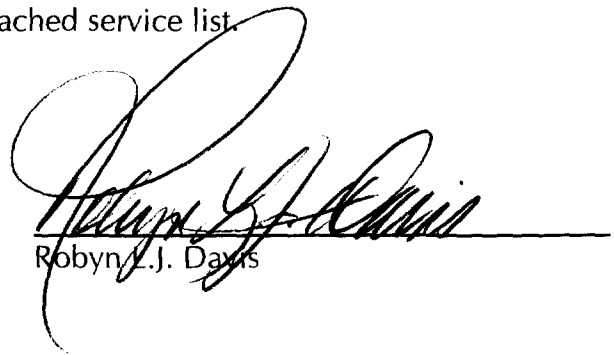
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CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on June 2, 1997 Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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